

determination with respect to the amount or distribution of royalty fees and costs, to order the repayment of any excess fees, and to order the payment of any underpaid fees, and the interest pertaining respectively thereto, in accordance with its final judgment. The court may further vacate the decision of the arbitration panel and remand the case to the Librarian for arbitration proceedings in accordance with subsection (c).

(h) ADMINISTRATIVE MATTERS.—

(1) DEDUCTION OF COSTS OF LIBRARY OF CONGRESS AND COPYRIGHT OFFICE FROM ROYALTY FEES.—The Librarian of Congress and the Register of Copyrights may, to the extent not otherwise provided under this title, deduct from royalty fees deposited or collected under this title the reasonable costs incurred by the Library of Congress and the Copyright Office under this chapter. Such deduction may be made before the fees are distributed to any copyright claimants. In addition, all funds made available by an appropriations Act as offsetting collections and available for deductions under this subsection shall remain available until expended. In ratemaking proceedings, the reasonable costs of the Librarian of Congress and the Copyright Office shall be borne by the parties to the proceedings as directed by the arbitration panels under subsection (c).

(2) POSITIONS REQUIRED FOR ADMINISTRATION OF COMPULSORY LICENSING.—Section 307 of the Legislative Branch Appropriations Act, 1994, shall not apply to employee positions in the Library of Congress that are required to be filled in order to carry out section 111, 112, 114, 115, 116, 118, or 119 or chapter 10.

(Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2596; Pub. L. 101-319, § 2(a), July 3, 1990, 104 Stat. 290; Pub. L. 103-198, § 2(b), Dec. 17, 1993, 107 Stat. 2305; Pub. L. 104-39, § 5(d)(2)-(4), Nov. 1, 1995, 109 Stat. 349; Pub. L. 105-80, § 8(b), Nov. 13, 1997, 111 Stat. 1533; Pub. L. 105-304, title IV, § 405(d), (e)(2)-(4), Oct. 28, 1998, 112 Stat. 2902.)

REFERENCES IN TEXT

The date of the enactment of the Copyright Royalty Tribunal Reform Act of 1993, referred to in subsec. (d), is the date of enactment of Pub. L. 103-198, which was approved Dec. 17, 1993.

Section 307 of the Legislative Branch Appropriations Act, 1994, referred to in subsec. (h)(2), is section 307 of Pub. L. 103-69 which is set out as a note under section 60-1 of Title 2, The Congress.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105-304, § 405(e)(2), substituted “section 111, 112, 114, 116, or 119, any transmitting organization entitled to a statutory license under section 112(f), any person entitled to a statutory license” for “section 111, 114, 116, or 119, any person entitled to a compulsory license”.

Subsec. (f). Pub. L. 105-304, § 405(d)(1), substituted “90” for “60” in first sentence and “an additional 30-day period” for “that 60-day period” in third sentence.

Subsec. (g). Pub. L. 105-304, § 405(d)(2), (e)(3), inserted after second sentence “When this title provides that the royalty rates or terms that were previously in effect are to expire on a specified date, any adjustment by the Librarian of those rates or terms shall be effective as of the day following the date of expiration of the rates or terms that were previously in effect, even

if the Librarian’s decision is rendered on a later date.” and substituted “sections 111, 112, 114” for “sections 111, 114”.

Subsec. (h)(2). Pub. L. 105-304, § 405(e)(4), substituted “section 111, 112, 114” for “section 111, 114”.

1997—Subsec. (h)(1). Pub. L. 105-80 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “(1) DEDUCTION OF COSTS FROM ROYALTY FEES.—The Librarian of Congress and the Register of Copyrights may, to the extent not otherwise provided under this title, deduct from royalty fees deposited or collected under this title the reasonable costs incurred by the Library of Congress and the Copyright Office under this chapter. Such deduction may be made before the fees are distributed to any copyright claimants. If no royalty pool exists from which their costs can be deducted, the Librarian of Congress and the Copyright Office may assess their reasonable costs directly to the parties to the most recent relevant arbitration proceeding.”

1995—Subsec. (c). Pub. L. 104-39, § 5(d)(2), substituted “section 111, 114, 116, or 119, any person entitled to a compulsory license under section 114(d), any person entitled to a compulsory license under section 115,” for “section 111, 116, or 119,” in third sentence.

Subsec. (g). Pub. L. 104-39, § 5(d)(3), inserted “114,” after “111,” in third sentence.

Subsec. (h)(2). Pub. L. 104-39, § 5(d)(4), inserted “114,” after “111,”.

1993—Pub. L. 103-198 amended section generally, substituting present provisions for provisions relating to the membership of the Copyright Royalty Tribunal, chairman of the Tribunal, and filling of vacancies in the Tribunal.

1990—Subsec. (a). Pub. L. 101-319 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The Tribunal shall be composed of five commissioners appointed by the President with the advice and consent of the Senate for a term of seven years each; of the first five members appointed, three shall be designated to serve for seven years from the date of the notice specified in section 801(c), and two shall be designated to serve for five years from such date, respectively. Commissioners shall be compensated at the highest rate now or hereafter prescribe for grade 18 of the General Schedule pay rates (5 U.S.C. 5332).”

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-39 effective 3 months after Nov. 1, 1995, see section 6 of Pub. L. 104-39, set out as a note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 112, 114, 119, 801, 803 of this title.

§ 803. Institution and conclusion of proceedings

(a)(1) With respect to proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in sections 112, 114, 115 and 116, and with respect to proceedings under subparagraphs (A) and (D) of section 801(b)(2), during the calendar years specified in the schedule set forth in paragraphs (2), (3), (4) and (5), any owner or user of a copyrighted work whose royalty rates are specified by this title, established by the Copyright Royalty Tribunal before the date of the enactment of the Copyright Royalty Tribunal Reform Act of 1993, or established by a copyright arbitration royalty panel after such date of enactment, may file a petition with the Librarian of Congress declaring that the petitioner requests an adjustment of the rate. The Librarian of Congress shall, upon the recommendation of the Register of Copyrights, make a determination as to whether the petitioner has such a significant interest in the royalty

rate in which an adjustment is requested. If the Librarian determines that the petitioner has such a significant interest, the Librarian shall cause notice of this determination, with the reasons therefor, to be published in the Federal Register, together with the notice of commencement of proceedings under this chapter.

(2) In proceedings under section 801(b)(2)(A) and (D), a petition described in paragraph (1) may be filed during 1995 and in each subsequent fifth calendar year.

(3) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in section 115, a petition described in paragraph (1) may be filed in 1997 and in each subsequent tenth calendar year or as prescribed in section 115(c)(3)(D).

(4)(A) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in section 116, a petition described in paragraph (1) may be filed at any time within 1 year after negotiated licenses authorized by section 116 are terminated or expire and are not replaced by subsequent agreements.

(B) If a negotiated license authorized by section 116 is terminated or expires and is not replaced by another such license agreement which provides permission to use a quantity of musical works not substantially smaller than the quantity of such works performed on coin-operated phonorecord players during the 1-year period ending March 1, 1989, the Librarian of Congress shall, upon petition filed under paragraph (1) within 1 year after such termination or expiration, convene a copyright arbitration royalty panel. The arbitration panel shall promptly establish an interim royalty rate or rates for the public performance by means of a coin-operated phonorecord player of non-dramatic musical works embodied in phonorecords which had been subject to the terminated or expired negotiated license agreement. Such rate or rates shall be the same as the last such rate or rates and shall remain in force until the conclusion of proceedings by the arbitration panel, in accordance with section 802, to adjust the royalty rates applicable to such works, or until superseded by a new negotiated license agreement, as provided in section 116(b).

(5) With respect to proceedings under section 801(b)(1) concerning the determination of reasonable terms and rates of royalty payments as provided in section 112 or 114, the Librarian of Congress shall proceed when and as provided by those sections.

(b) With respect to proceedings under subparagraph (B) or (C) of section 801(b)(2), following an event described in either of those subsections, any owner or user of a copyrighted work whose royalty rates are specified by section 111, or by a rate established by the Copyright Royalty Tribunal or the Librarian of Congress, may, within twelve months, file a petition with the Librarian declaring that the petitioner requests an adjustment of the rate. In this event the Librarian shall proceed as in subsection (a) of this section. Any change in royalty rates made by the Copyright Royalty Tribunal or the Librarian of Congress pursuant to this subsection may be reconsidered in 1980, 1985, and each fifth calendar year thereafter, in accordance with the provisions in section 801(b)(2)(B) or (C), as the case may be.

(c) With respect to proceedings under section 801(b)(1), concerning the determination of reasonable terms and rates of royalty payments as provided in section 118, the Librarian of Congress shall proceed when and as provided by that section.

(d) With respect to proceedings under section 801(b)(3) or (4), concerning the distribution of royalty fees in certain circumstances under section 111, 116, 119, or 1007, the Librarian of Congress shall, upon a determination that a controversy exists concerning such distribution, cause to be published in the Federal Register notice of commencement of proceedings under this chapter.

(Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2597, § 804; Pub. L. 100-568, § 11(2), Oct. 31, 1988, 102 Stat. 2860; Pub. L. 100-667, title II, § 202(5), Nov. 16, 1988, 102 Stat. 3958; Pub. L. 101-318, § 3(c), July 3, 1990, 104 Stat. 288; Pub. L. 102-563, § 3(a)(2), Oct. 28, 1992, 106 Stat. 4248; renumbered § 803 and amended Pub. L. 103-198, § 2(d), Dec. 17, 1993, 107 Stat. 2307; Pub. L. 104-39, § 5(d)(5)-(7), Nov. 1, 1995, 109 Stat. 349; Pub. L. 105-80, § 12(a)(20), Nov. 13, 1997, 111 Stat. 1535; Pub. L. 105-304, title IV, § 405(e)(5), (6), Oct. 28, 1998, 112 Stat. 2902.)

REFERENCES IN TEXT

The date of the enactment of the Copyright Royalty Tribunal Reform Act of 1993, referred to in subsec. (a)(1), is the date of enactment of Pub. L. 103-198, which was approved Dec. 17, 1993.

PRIOR PROVISIONS

A prior section 803, Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2596, related to procedures of the Copyright Royalty Tribunal, prior to repeal by Pub. L. 103-198, § 2(c), Dec. 17, 1993, 107 Stat. 2307.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105-304, § 405(e)(5), substituted “sections 112, 114, 115” for “sections 114, 115”.

Subsec. (a)(5). Pub. L. 105-304, § 405(e)(6), substituted “section 112 or 114” for “section 114” and “those sections” for “that section”.

1997—Subsec. (b). Pub. L. 105-80 substituted “subsection (a)” for “subsection subsection (a)”.

1995—Subsec. (a)(1). Pub. L. 104-39, § 5(d)(5), in first sentence substituted “sections 114, 115 and 116” for “sections 115 and 116” and “paragraphs (2), (3), (4) and (5)” for “paragraphs (2), (3), and (4)”.

Subsec. (a)(3). Pub. L. 104-39, § 5(d)(6), inserted before period at end “or as prescribed in section 115(c)(3)(D)”.

Subsec. (a)(5). Pub. L. 104-39, § 5(d)(7), added par. (5).

1993—Pub. L. 103-198, § 2(d)(1), renumbered section 804 of this title as this section.

Subsec. (a). Pub. L. 103-198, § 2(d)(2), amended subsec. (a) generally, substituting present provisions for provisions relating to commencement of proceedings concerning the adjustment of rates established by the Copyright Royalty Tribunal, filing of petitions by interested persons seeking adjustments of rates, and publication of notice of such proceedings in the Federal Register.

Subsec. (b). Pub. L. 103-198, § 2(d)(3), substituted “subparagraph (B)” for “subclause (B)”, “established by the Copyright Royalty Tribunal or the Librarian of Congress” for “established by the Tribunal”, “petition with the Librarian” for “petition with the Tribunal”, “Librarian shall proceed” for “Tribunal shall proceed”, “subsection (a) of this section” for “(a)(2), above”, and “rates made by the Copyright Royalty Tribunal or the Librarian of Congress” for “rates made by the Tribunal”.

Subsec. (c). Pub. L. 103-198, § 2(d)(4), substituted “Librarian of Congress” for “Tribunal”.

Subsec. (d). Pub. L. 103-198, §2(d)(5), substituted “Librarian of Congress” for “Chairman of the Tribunal” and “a determination” for “determination by the Tribunal”.

Subsec. (e). Pub. L. 103-198, §2(d)(6), struck out subsec. (e) which read as follows: “All proceedings under this chapter shall be initiated without delay following publication of the notice specified in this section, and the Tribunal shall render its final decision in any such proceeding within one year from the date of such publication.”

1992—Subsec. (d). Pub. L. 102-563 inserted “or (4)” after “§803(b)(3)” and substituted “119, or 1007” for “or 119”.

1990—Subsec. (a)(2)(C)(i). Pub. L. 101-318 substituted “section 116” for “section 115”.

1988—Subsec. (a)(2)(C). Pub. L. 100-568 amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “In proceedings under section 801(b)(1) concerning the adjustment of royalty rates under section 116, such petition may be filed in 1990 and in each subsequent tenth calendar year.”

Subsec. (d). Pub. L. 100-667 substituted “section 111, 116, or 119” for “sections 111 or 116”.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-39 effective 3 months after Nov. 1, 1995, see section 6 of Pub. L. 104-39, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 3(e)(2) of Pub. L. 101-318 provided that: “The amendment made by subsection (c) [amending this section] shall be effective as of October 31, 1988.”

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-667 effective Jan. 1, 1989, see section 206 of Pub. L. 100-667, set out as an Effective Date note under section 119 of this title.

Amendment by Pub. L. 100-568 effective Mar. 1, 1989, with any cause of action arising under this title before such date being governed by provisions in effect when cause of action arose, see section 13 of Pub. L. 100-568, set out as a note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 112, 114, 115, 802 of this title.

[§ 804. Renumbered § 803]

[§§ 805 to 810. Repealed. Pub. L. 103-198, §2(e), Dec. 17, 1993, 107 Stat. 2308]

Section 805, Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2598, related to staff of Copyright Royalty Tribunal.

Section 806, Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2598, related to administrative support of Tribunal.

Section 807, Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2598, related to deduction of costs of proceedings involving distribution of royalty fees.

Section 808, Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2598, related to reporting requirements of the Tribunal.

Section 809, Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2598, related to effective date of final determinations of Tribunal.

Section 810, Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2598, related to judicial review of final decisions of Tribunal.

CHAPTER 9—PROTECTION OF SEMICONDUCTOR CHIP PRODUCTS

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AMENDMENTS

1997—Pub. L. 105-80, §12(a)(21), Nov. 13, 1997, 111 Stat. 1535, substituted “Ownership, transfer, licensure, and recordation” for “Ownership and transfer” in item 903.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 109 of this title; title 11 section 101; title 19 section 1337; title 28 sections 1338, 1498.

§ 901. Definitions

(a) As used in this chapter—

(1) a “semiconductor chip product” is the final or intermediate form of any product—

(A) having two or more layers of metallic, insulating, or semiconductor material, deposited or otherwise placed on, or etched away or otherwise removed from, a piece of semiconductor material in accordance with a predetermined pattern; and

(B) intended to perform electronic circuitry functions;

(2) a “mask work” is a series of related images, however fixed or encoded—

(A) having or representing the predetermined, three-dimensional pattern of metallic, insulating, or semiconductor material present or removed from the layers of a semiconductor chip product; and

(B) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product;

(3) a mask work is “fixed” in a semiconductor chip product when its embodiment in the product is sufficiently permanent or stable to permit the mask work to be perceived or reproduced from the product for a period of more than transitory duration;

(4) to “distribute” means to sell, or to lease, bail, or otherwise transfer, or to offer to sell, lease, bail, or otherwise transfer;

(5) to “commercially exploit” a mask work is to distribute to the public for commercial purposes a semiconductor chip product embodying the mask work; except that such term includes an offer to sell or transfer a semiconductor chip product only when the offer is in writing and occurs after the mask work is fixed in the semiconductor chip product;

(6) the “owner” of a mask work is the person who created the mask work, the legal representative of that person if that person is de-

¹ So in original. Does not conform to section catchline.